

Amended

ZBA MINUTES March 14, 2022

Members Present:

Doreen Prouty, Chair

Richard Maggi, Vice-Chair

Gary Geiger, Clerk

Aldo Mancini, Alternate

Vincenzo Ronghi, Alternate

Chairperson Prouty opened the meeting at 6:30PM.

A. Case #2003: Charles Calabrese  
Special Permit

Members sitting: Doreen Prouty, Richard Maggi and Gary Geiger.

This request is to amend a previously granted Special Permit (#1988, October 28, 2019) to allow the approved duplex to move its location on the subject property. Atty. Sean Powers represented the petitioner, Charles Calabrese. Atty. Powers stated this new request is in response to the concerns raised by the Inspector of Buildings and the Health Agent. The new location for this structure will be further set back than previously approved and will meet zoning setback requirements. Chairperson Prouty stated that, according to the new plan, the front setback will be 35' which is in conformance. Member Geiger asked what the lot size is and Atty. Powers responded approximately 10,000s.f. The Chair asked the town solicitor, Stephen Buoniconti, if he would like to speak. Atty. Buoniconti stated that, the Inspector of Buildings Bill Scott and the Health Agent Michael Theroux, along with himself, conducted a thorough inspection of this lot and both felt the proximity of the previously approved structure to the road was a safety concern. Atty. Buoniconti was asked if he was speaking specifically of the duplex location since there is another structure on the lot that is also very close to the road. Atty. Buoniconti confirmed he was talking about the previously approved duplex's location. Chair Prouty read memos received from the Health Agent and the Inspector of Buildings; both of whom recommended moving the duplex further from the road due to safety issues. Inspector Bill Scott wrote that the current location puts the front steps five feet from the road. Chair Prouty read a copy of a 2021 e-mail sent to former Planning Director Marc Strange, the city councilors and the mayor. This e-mail from Eric Anderson, 26 Faymore Drive states his opposition to turning the garage into a rental. Chair Prouty is not sure if Mr. Anderson's past e-mail concerns the same situation but wants the record to reflect his opposition in the past. Atty. Powers stated there are no plans to convert the garage into a rental unit.

Chair Prouty opened this hearing to the public.

David Chapman, 72 Cooley St., stated he is in opposition of this new request but was okay with the previously approved plan. He stated that every house on High St. is close the street and moving it back would cause the duplex to be very close to the fence in the back. He also stated he is in opposition of creating a third dwelling. Chair Prouty stated the new rear setback will be

38” which is more than the required minimum of 20’. Mr. Chapman reiterated that if the store on the property is converted into a home, it would go from 1 to 3 families on one property. Chair Prouty stated the conversion of the store is next on the agenda. She then opened the next hearing.

B. Case #2004: Charles Calabrese  
Variance

The petitioner is requesting to convert the historic storefront into residential space which would create 3 dwelling units in two separate buildings on the same property. She explained the petitioner is seeking 2 different permits, a Special Permit for the duplex and a Variance for the historic storefront. Chair Prouty opened the hearing to the public.

Mr. Chapman stated the storefront building is also very close to the road.

Mark Nicoli, Trustee for Village Apartments, 71-77 High St. stated High St. is deemed a main thoroughway and has children living there. He continued by saying Mr. Calabrese has built another house on the street and they are cookie cutter and are nice looking buildings. He also believes this will help make the area look a lot nicer. As to the storefront, he believes it should be bulldozed, that it looks dangerous and allowing this conversion would add to the population density.

Henry Kosloski, 102 Meadow St. asked if 3 dwellings on one property was legal according to the zoning bylaws. Chair Prouty answered that it is not allowed.

David Cecchi, Chairman of the Agawam Historical Commission, stated that the storefront, regardless of its current physical condition, is considered historically significant. Mr. Cecchi said it is one of the last remaining commercial storefronts in North Agawam and probably built before 1900. He continued to say there is a signed agreement between Mr. Calabrese and the Town to preserve the storefront. A building’s physical condition is not tied to its historical significance.

Mr. Calabrese stated it would cost a minimum of \$130,000 to restore the storefront into an apartment. Renting it as such is the only way for him to get back this investment. Atty. Powers stated Mr. Calabrese has been working with the town since the storefront is considered historic by the Agawam Historical Commission. To restore this building to its original use, which had been commercial, additional parking spaces would be required, thus creating further traffic problems on the street. Atty. Powers believes the best use would be as a one-bedroom studio apartment that would have lesser traffic effects. Atty. Powers listed other financial options for this storefront, including requesting CPA funds or gifting the building to the town to be moved elsewhere.

Atty. Buoniconti stated this parcel has a unique history. It is believed the original single-family residence was on a lot designated as 57 High St and the storefront lot as 59 High St. These 2 lots

were merged sometime in the past, creating the one lot. He stated the storefront is in horrible condition and realizes going from one to three units on the property is a significant change. If this Variance request is denied, Mr. Calabrese can still apply for a demolition permit. This request would be subject to 6 months delay as required by the Town's Demolition Delay Ordinance, after which he could tear down the storefront. Pioneer Valley Planning Commission did a thorough review and found value in restoring the storefront. An agreement titled "Agreement Relating to 59 High St. Agawam, MA" between the Town and Mr. Calabrese was signed as incentive for Mr. Calabrese to restore this building.

Mr. Calabrese stated the storefront building would have a back door entrance and may need to be moved back a bit since its foundation is also very close to the street. Member Maggi and Atty. Powers discussed Ch. 180-7 which concerns non-conformity. Chair Prouty clarified a Variance is needed because Residence B does not allow two residential structures on one property.

Chairperson Prouty closed the hearings for both cases and went directly into a meeting for discussion by the Board. Chair Prouty stated she has no issue with the duplex since it is an allowed use in a Residence B district. She also noted the new plan shows the duplex will meet all setback requirements, something the previously approved duplex did not meet. She stated that the request for the variance is based solely on the structure's historical significance. She could not find any state or local laws stating that being historic satisfies all the conditions in the granting of a variance. She is in favor of the duplex but not in favor of turning the storefront into a residential unit.

Member Maggi stated three requirements must be met to issue a variance, one of which is "the granting of this variance will not be substantially detrimental to the public good". He believes creating a residence would be a detriment and substantially derogate from the intent of the ordinance. He believes the special permit should be granted but not the variance.

Member Geiger stated the store will just continue to rot if nothing is done. Alternate Member Ronghi stated the Town and Historical Commission played a hand in creating the agreement because the store is a historical structure and Mr. Calabrese is willing to work with the Commission. Member Ronghi believes by not considering setting a precedent and only voting by what they have done in the past, the Board is dismissing the work of the Historical Commission and the Town. Chair Prouty stated a use variance must be specified by the town and Agawam does not have an exception to allow 2 residential buildings on one property in Business A.

It was asked of Mr. Cecchi whether the state could get involved if the variance is denied. Mr. Cecchi answered it is hard to say. It was also asked if the front of the building could be moved to a different location. Mr. Cecchi replied it is called integrity of location and if moved, the significance diminishes significantly.

Chairperson Prouty asked if the members were ready to vote on Case #2003 and Case #2004. All replied yes.

For Case #2003, Chairperson called for a vote to grant a Special Permit to allow Mr. Calabrese to amend the previously granted special permit (Case #1988) for the location of the duplex. Geiger—yes, Maggi—yes, Prouty—yes. The members unanimously agreed to sign the new plan provided to this Board, proof of filings must be provided to this Board and to the Inspector of Buildings and said special permit would become null and void if construction does not commence within 3 years of the date of this decision. Chair Prouty explained the 20 day appeal period.

For Case #2004, Chair Prouty explained that a Variance requires 3 separate determinations. The Board will vote on each condition separately as to whether it meets the criteria.

Condition #1 – Owing to circumstances relating to soil conditions, shape or topography of such land: Geiger – yes, Maggi – yes, Prouty – yes

Condition #2 – a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise to the petitioner or appellant: Geiger – yes, Maggi – no, Prouty – no

Condition #3 – The desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance: Geiger – yes, Maggi - no, Prouty – no

Chair Prouty stated that without the unanimous consent of the 3 members, this variance is denied. She then explained the 20-day appeal period.

C. Approval of Minutes, December 13, 2021

Motion made by member Geiger and seconded by member Ronghi to approve the December 13, 2021 meeting minutes with a revision to bottom of page 2 to include the motion to proceed with the vote. Ronghi – yes, Geiger – yes, Prouty – yes.

D. Any other matter that may legally come before this Board – none

Motion made by member Ronghi and seconded by member Geiger to adjourn the meeting. All in favor. Meeting adjourned at 8:05PM.